IN THE HIGH COURT OF BOMBAY AT GOA

Writ Petition No.376 of 2002 and Writ Petition No.46 of 2003.

WRIT PETITION NO.376 OF 2002

M/S SYNGENTA INDIA LTD.,
a Company incorporated under the
Indian Companies Act having its
plant at Santa Monica,
Corlim,Ilhas,Goa-403 110 ...PETITIONER

VERSUS

1. Mumbai Mazdoor Sabha,
   a Trade Union registered
   under the Trade Unions Act
   and having its Officec at
   Kennedy House, 4th flr.,
   Goregaonkar Road,
   Mumbai-400 007;

2. Kamgarancho Ekvott,
   a Trade Union registered under
   the Trade Unions Act 1926
   and having

   its office at Panaji, Goa;

3. Hon'ble Presiding Officer,
   Industrial Tribunal,
   Government of Goa,
   Panaji, Goa ...RESPONDENTS.

Mr. C. Pawaskar and Mr. S.D. Padiyar, Advocates for the Petitioner.

Mr. Arshad Shaikh with Mr. V. Menezes, Advocates for Respondent No.1.

Mr. D. Pangam, Advocate for Respondent No.2.

WRIT PETITION NO.46 OF 2003

M/s Ciba Speciality Chemicals
(India) Ltd. a Company incorpo-
rated under the Indian Companies

Act having its plant at Santa
Monica, Corlim, Ilhas,
Goa- 403 110 ... PETITIONER

VERSUS

1. Mumbai Mazdoor Sabha,
   a Trade Union registered
   under the Trade Unions
   Act and having its
   Office at Kennedy House,
   4th flr.,Goregaonkar Road,
   Mumbai 400 007;

2. Kamgarancho Ekvott,
   a Trade Union registered
   under the Trade Unions Act
   1926 and having its office
   at Panaji, Goa;

3. Shri Ajit Jairam Agni,
   Hon'ble Presiding Officer,
   Industrial Tribunal,
   Government of Goa,
   Panaji, Goa ...RESPONDENTS.

Mr. G.K. Sardessai, Advocate for the Petitioner.

Mr. Arshad Shaikh with Mr. V. Menezes, Advocates for Respondent No.1.

CORAM : S.J. VAZIFDAR,J.

DATED : APRIL 4, 2003.

ORAL ORDER

Prima facie, it appears that the stand taken on behalf of the Respondents is not reasonable fair or in the interest of all the workmen.

2. In the first matter, only 58 out of

310 workmen are opposing the settlement. In the second matter, only one out of 71 employees is objecting to the same. Despite the same, I must dismiss the Petition in view of an Order dated 26th April, 2001, passed by Hardas, J. where it was observed as follows:-

> ".....It is rightly submitted by Mr. Singh, the learned counsel appearing for petitioner, that while adjudicating the dispute, the Court may hold the settlement to be fair, just and proper and may pass award in terms of the settlement arrived by the respondent no.3 union with the respondents 1 and 2. Companies or the Industrial Tribunal may grant the petitioner union more benefits than what is settled between the parties. However, that is matter whichwill be dealt with by the learned Presiding Officer of the Industrial Tribunal after the evidence of the parties is adduced in the proceedings. "

The High Court held further:-

> " ....It is true that the Industrial Tribunal would be called upon to decide whether the settlement arrived at between the respondent no.3 union and the respondents 1 and 2 companies is a just, fair and proper settlement of the dispute. The employers, parties to the reference would have to establish before the Industrial Tribunal that the settlement is just, fair and proper....."

3. The learned Counsel appearing on behalf of the Petitioner submitted that these observations ought not to come on their way of having the question of whether the settlement is fair, just and proper or not, tried as a preliminary issue because the main question there was whether the Respondent No.3 therein ought to be impleaded or not. However, the emphasized portion seems to indicate that the Tribunal may grant the Petitioner Union more benefits than what is settled between the parties. This Order has upto now at least not been challenged and I am bound by the same.

For this limited reason, the Petitions are dismissed.

S.J. VAZIFDAR,J.

ac.